

ANDOVER BOARD OF HEALTH
Minutes
January 14, 2013, 6:00 P.M.
CD&P First Floor Conference Room
36 Bartlet Street

The Board of Health Meeting was called to order at 6:00 p.m. Present were Ms. Candace B. Martin, Chairman, Dr. Donald H. Miller, Vice-Chairman, Ms. Katherine Kellman, Clerk, and Mr. Thomas G. Carbone, Director of Public Health.

I. Approval of Minutes

- **December 10, 2012** – Mr. Carbone explained to the Board that the December 10, 2013 minutes were not ready and asked to continue the approval until the February 11, 2013 Board of Health Meeting.

The Board continued the approval until the February 11, 2013 Board of Health Meeting.

II. Appointments & Hearings

- **6:00 p.m. – Ms. Helen Hoang for Tokyo Steak House – Show Cause Hearing** – Present were the owners of Tokyo Steak House, Ken and Helen Hoang and a couple of their staff members. Mr. Carbone informed the Board (BOH) that he conducted an inspection of the facility on December 11, 2012 and found a large number of critical violations, including some fairly important cleaning issues, so he issued an ORDER for Ms. Hoang to appear before the BOH. In the Agenda Packet was a document showing the last three inspections and the violations that were noted. On 8/10/2011 there were three critical violations, on 6/20/2012 there were three, and on 12/11/2012, there were six. An Administrative Hearing was held in March of 2011, but it didn't seem to make a difference, so he decided to bring this issue back to the BOH. Issues included uncovered food in the walk-in, dirty food prep sink, large debris buildup under the fryer, as well dirty Tapenaki tables. Mr. Carbone conducted a reinspection last Friday, and all of the violations have been corrected. Ms. Martin noted that the owners were not present for the inspection, but the Person in Charge, Joanne, was. Ms. Martin asked the owners to explain what had happened to bring the establishment to those conditions. Mr. Hoang explained that the biggest problem was with communication because his staff speak different dialects, so when he holds a meeting, he has to speak three languages. He realized he had to have signs in different languages and require his staff to read them for directions. Ms. Martin told Mr. Hoang that she was concerned because the cleanliness issues were found when the restaurant was just opening, and it should have been clean before they left the night before. Mr. Hoang admitted that there is slacking at times as well as miscommunication, but he is determined to keep up with the cleaning. He showed the BOH some of his pictures to show that things are now clean. He made some of the areas easier to clean and his employees do all the cleaning. Mr. Carbone told the BOH that the hoods were in good shape. The employees are responsible for cleaning

their particular areas and some were better cleaned than others. The fryer area was not very clean, and Mrs. Hoang explained that some of that area does not have easy access, but they have removed the equipment they don't use and made it so the equipment can be moved easily. Mr. Hoang explained that it is hard to get good help and that is part of the problem. Mr. Hoang understands the importance of food safety and he, Helen and Joanne went through professional training, and are Certified in ServeSafe and Allergen Awareness. Mr. Hoang and Joanne are at the restaurant most of the time, and Ms. Hoang is there two days a week. Both Mr. & Mrs. Hoang are dedicated to keeping the restaurant clean and are committed to holding regular meetings on Fridays with their staff. The biggest issue is making sure the staff understands that the restaurant has to be clean at night before everyone goes home. Dr. Miller asked if Mr. Hoang thought his employees just do not listen to him because of the communication problem. Mrs. Hoang replied that that is the case sometimes, but now he will be stricter with the staff to make sure they know the importance of keeping their own sections clean.

Motion by Ms. Martin, seconded by Dr. Miller to continue the Show Cause Hearing for three months with the Health Division conducting an additional inspection before then. Unanimous approval.

- **6:15 p.m.**

- **Ballardvale Catering Show Cause Hearing, Failure to provide Allergen Awareness Certificate** – Present was owner of Ballardvale Catering, Mark Deluca. Ms. Martin noted that the Allergen Awareness Certificate was not submitted to the Health Division as requested for his Mobile Food Permit. Mr. Deluca said that he had the paperwork showing that he took the course, but did not have the Allergen Awareness Certificate yet. Mr. Carbone explained to the Board that there is a delay in getting the actual Certificate after taking the on-line course. There usually is a ten day period of time before the Certificate arrives. Mr. Deluca stated that he did not have the paperwork proving that he took the course, so Ms. Martin requested that he send that paperwork in by Friday and the actual certificate by January 28, 2013. Mr. Carbone explained that the Allergen Awareness Certificate was a fairly new requirement and that a notice was sent out to the food establishments informing them of the requirement when it first came into effect in 2011. He stated that the video on Allergen Awareness was mostly about restaurant staff, but Dr. Miller reminded him that this is a State requirement. He responded that he understood that and did get something out of the video at the end.

Motion by Ms. Martin, seconded by Ms. Kellman, to close the Hearing for Ballardvale Catering with the requirement that Mr. Deluca get a copy of the Allergen Awareness Certificate to the Health Division by Friday, January 28, 2013. Unanimous approval.

- **Yummy Mummy Cookie Co. Show Cause Hearing, Failure to provide Allergen Awareness Certificate** – Present was Linda Berube, proprietor of the

Yummy Mummy Cookie Co. Mr. Carbone explained that Ms. Berube has completed her Allergen Awareness training, and she is just waiting for the certificate to be mailed to her. Ms. Berube stated that she tried to download the paperwork to prove that she took the course, but when she left the website and tried to get back in, the system would not allow her to get in and print the information; it only said that she had registered. Ms. Martin told Ms. Berube to be sure to get the paperwork in by January 28, 2013, allowing for the ten days it takes to receive the certificate in the mail.

Motion by Ms. Martin, seconded by Ms. Kellman, to close the Hearing for Yummy Mummy Cookie Co., with the requirement that Ms. Berube get a copy of the Allergen Awareness Certificate to the Health Division by Friday, January 28, 2013. Unanimous approval.

- **Flik at Vicor (25 Frontage Rd.) – Show Cause Hearing, Failure to provide Allergen Awareness and Food Protection Manager Certificates** – Mr. Carbone told the Board that in the intervening time, the Allergen Awareness and Food Protection Manager Certificates have been received. Ms. Martin told the representative for Vicor to be sure to get all required paperwork in by the time requested.

Motion by Ms. Martin, seconded by Ms. Kellman, to close the Hearing for Flik at Vicor (25 Frontage Rd.) and take no action. Unanimous approval.

- **6:30 p.m.**

- **Epicurean Feast (4 locations) – Show Cause Hearing, Failure to provide Allergen Awareness and Food Protection Manager Certificates** – Mr. Carbone informed the Board that there are only three locations now because one had closed. All required paperwork has been submitted, and there was a representative of the company present.

Motion by Ms. Martin, seconded by Ms. Kellman, to close the Hearing for Epicurean Feast and take no action. Unanimous approval.

- **Pike School – Show Cause Hearing, Failure to provide Allergen Awareness and Food Protection Manager Certificates** – A representative from Pike School did not show up to the Hearing. Mr. Carbone stated that he spoke with someone from the school and received the required paperwork on Friday.

Motion by Ms. Martin, seconded by Ms. Kellman, to close the Hearing for Pike School and take no action. Unanimous approval.

III. Discussion

- **Town Meeting Article – Updated Map for Watershed Protection Overlay District** – Mr. Carbone explained that when the Town amended its Watershed

Protection Overlay District a couple of years ago, a section was inserted designating a Priority Zone 1 and 2 within the district. With issues that arose with the Rolling Green development, Town Counsel suggested clarifying issues by making a new map. Mr. Brian Moore, Town Engineer, Ms. Jacki Byerley, Planner and Mr. Robert Douglas, Conservation Commission Director, put the new map together. This new map would provide information when trying to find what areas include the Priority Zones 1 and 2. This Article is being presented so that we can adopt the map created on December 12, 2012. We are not making a move to change the definition, just to highlight bodies of water that will be affected. Mr. Carbone recommended that that the Board co-sponsor and endorse the article.

Motion by Dr. Miller, seconded by Ms. Martin, to co-sponsor and endorse the Article to update the Watershed Protection Overlay District Map. Unanimous approval.

- **Overnight Closing of the Chateau Restaurant (not on Agenda)** – Ms. Martin asked Mr. Carbone about the closure of the Chateau Restaurant on Friday, January 4, 2013. Mr. Carbone informed the Board that previous full inspections conducted in May, 2012 and reinspection in June of 2012 both had critical violations. In May there were critical violations in the bar area and in the kitchen. The meat temperatures were bad, housekeeping in the bar area was filthy, there was broken glass and ice scoops left in ice after being submerged. Mr. Carbone held an Administrative Hearing in the past and had six or seven Managers there who apologized. Mr. Carbone explained that they had to do a better job. After the meeting, Mr. Carbone put together a letter concerning three issues: food temperatures, cleaning issues and physical plant maintenance. Ms. Michelle Grant, our contracted Food Inspector, was there for many hours, as well as Andover Health Agent Ms. Patricia Crafts. Our biggest concern was making sure things were safe for the functions they had scheduled on Saturday. The restaurant was closed voluntarily on Friday. They will have two ServeSafe Certified people in the kitchen at all times, and are sending another four people to training. They will be reinstituting the Check List that Ms. Grant helped them with. One of the Management Team will be using what they call a Cleanliness Check List, and they brought in extra help for their training. They will remain on our watch list, and Ms. Crafts will possibly be going back sometime this week to check on them. We will be charging them a reinspection fee to cover some of the cost of this problem.
- **Update on Flu Activities (not on Agenda)** – Andover Town Nurse, Jane Morrissey noticed an uptick in flu cases after the New Year; she had five notices of positive flu where there usually are only two. It was brought to the public's attention when Boston Mayor Menino declared a State of Emergency because there were too many patients in the hospitals and they had to utilize locations in the hospitals that they normally wouldn't use. We will be having more Flu Clinics by appointment and will be utilizing help from the MRC. We have the flu hotline updated and are sending calls to the hotline.

IV. Old Business

- **Susan Odle** – Ms. Martin asked if the Attorney General (AG) is continuing actions for receivership. Mr. Carbone did receive a call from Ms. Odle and thinks that the AG may have been in touch with her. The AG is moving forward with filing a petition for receivership and a notice will be posted tomorrow. Mr. Carbone brought in the Legal Notice to show the Board stating that an action has been filed with Northeast Housing Court and that she is summoned for a Hearing on February 7, 2013 concerning the appointment of a Receiver.¹ Ms. Martin asked if the Legal Notice goes on the property, or if Ms. Odle also receives it. Mr. Carbone stated that the AG's office is handling the procedure and would probably send her a letter as well about the posting. When Mr. Carbone posts the Legal Notice, he will let the AG office know. Ms. Odle is given ten days from the posted date to contact the AG. If a Receiver is appointed, Mr. Carbone does not have to be involved; the Receiver will be the person designated to report back to the court. Ms. Martin asked if the Receiver will be obligated to clean up in a certain time period. Mr. Carbone replied that the Receiver has to make a good effort, and the Judge will make judgments about the progress as it goes along.

V. Definitive Subdivision Plans

- N/A

VI. Plan Review

- **DWRP – Variances/Local Upgrade Approval**
 - **24 Prospect Rd. – LUA to Allow SAS to be 11' from a Foundation, 20' required** – Mr. Carbone explained that the LUA was needed because the lot area is small and very wooded. The Engineer determined this was the best location, but he needs 11' where 20' is required.

Motion by Ms. Martin, seconded by Dr. Miller to approve the LUA to Allow the SAS to be 11' from the foundation where 20' is required and that the foundation be lined with an impervious barrier. Unanimous approval.

- **26 River Rd. – LUA's to Allow SAS to be 15' from a Foundation, 20' required: SAS to be 5' from Property Line, 10' Required** – Mr. Carbone stated that this is a small lot that is being sold, and that he had polled the Board of Health (BOH) earlier in the week and issued an approval letter subject to the Applicant hiring an installer to pull permits to upgrade the septic system. Mr. Carbone explained that in the first design the SAS was 10' from the foundation, but Mr. Carbone was more comfortable with 15', so they are asking for the two LUA's instead.

¹ The Legal Notice Document has been inserted into the Agenda Packet after page 16.

Motion by Ms. Martin, seconded by Ms. Kellman to approve the LUA to allow the SAS to be 15' from a Foundation where 20' is required and allow the SAS to be 5' from the property line where 10' is required. Unanimous approval.

VII. Staff Reports

A. Director's Reports:

- **Important Dates:**

- February 6, 2013 – CDC Audit of EDS Plan – Mr. Carbone stated that he has been working on updating the EDS plans this week and has to have them to the state by Wednesday. Tomorrow he will work on finalizing the document, and Wednesday morning he will be working on the Assessment document and will get it off to DPH by the end of the day.
- February 11, 2013 at 6 p.m. – Board of Health Meeting
- March 11, 2013 @ 6 p.m. – Board of Health Meeting

B. Nurses' Reports for December, 2012 – The Nurses' Reports for December, 2012, were for informational purposes only.

C. Inspectors' Reports for December, 2012 – The Inspectors' Reports for December, 2012 were for informational purposes only.

VIII. Board Member Reports

- **Notation of Dr. Miller's last Board of Health Meeting** – The Board noted that this Board of Health Meeting is Dr. Miller's last meeting. The Board Members thanked him for his service. There is no replacement for Dr. Miller yet, but Mr. Carbone will look at the list of MRC members to see if anyone is interested in joining the Board.

IX. Adjournment

Motion by Dr. Miller, seconded by Ms. Martin, to adjourn at 7:20 p.m. Unanimous approval.